

**ASSEMBLY BILL**

**No. 960**

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**Introduced by Assembly Member Chiu**

February 26, 2015

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An act to amend Section 6306 of the Family Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 960, as introduced, Chiu. Prevention of domestic violence: protective orders.

Existing law authorizes a court to issue an order to restrain a person to prevent acts of domestic violence, abuse, sexual abuse, and to provide for a separation of persons involved in domestic violence. Under existing law, prior to a hearing on the issuance or denial of an order for this purpose, the court is required to ensure that a search of specified records and databases is or has been conducted to determine if the subject of the proposed order has a prior criminal conviction, as specified. Under existing law, prior to deciding whether to issue an order or when determining appropriate temporary custody and visitation orders, a court is required to consider specified information obtained pursuant to that search.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6306 of the Family Code is amended to read:

6306. (a) Prior to a hearing on the issuance or denial of an order under this part, the court shall ensure that a search is or has been conducted to determine if the subject of the proposed order has ~~any~~ a prior criminal conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; has ~~any~~ a misdemeanor conviction involving domestic violence, weapons, or other violence; has ~~any~~ an outstanding warrant; is currently on parole or probation; has a registered firearm; or has ~~any~~ a prior restraining order or ~~any~~ violation of a prior restraining order. The search shall be conducted of all records and databases readily available and reasonably accessible to the court, including, but not limited to, the following:

(1) The California Sex and Arson Registry (CSAR).

(2) The Supervised Release File.

(3) State summary criminal history information maintained by the Department of Justice pursuant to Section 11105 of the Penal Code.

(4) The Federal Bureau of Investigation's nationwide database.

(5) Locally maintained criminal history records or databases.

However, a record or database need not be searched if the information available in that record or database can be obtained as a result of a search conducted in another record or database.

(b) (1) Prior to deciding whether to issue an order under this part or when determining appropriate temporary custody and visitation orders, the court shall consider the following information obtained pursuant to a search conducted under subdivision (a): ~~any~~ a conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; ~~any~~ a misdemeanor conviction involving domestic violence, weapons, or other violence; ~~any~~ an outstanding warrant; parole or probation status; ~~any~~ a prior restraining order; and ~~any~~ violation of a prior restraining order.

(2) Information obtained as a result of the search that does not involve a conviction described in this subdivision shall not be considered by the court in making a determination regarding the

1 issuance of an order pursuant to this part. That information shall  
2 be destroyed and shall not become part of the public file in this or  
3 any other civil proceeding.

4 (c) (1) After issuing its ruling, the court shall advise the parties  
5 that they may request the information described in subdivision (b)  
6 upon which the court relied. The court shall admonish the party  
7 seeking the proposed order that it is unlawful, pursuant to Sections  
8 11142 and 13303 of the Penal Code, to willfully release the  
9 information, except as authorized by law.

10 (2) Upon the request of either party to obtain the information  
11 described in subdivision (b) upon which the court relied, the court  
12 shall release the information to the parties or, upon either party's  
13 request, to his or her attorney in that proceeding.

14 (3) The party seeking the proposed order may release the  
15 information to his or her counsel, court personnel, and  
16 court-appointed mediators for the purpose of seeking judicial  
17 review of the court's order or for purposes of court proceedings  
18 under Section 213.5 of the Welfare and Institutions Code.

19 (d) ~~Any information~~ *Information* obtained as a result of the  
20 search conducted pursuant to subdivision (a) and relied upon by  
21 the court shall be maintained in a confidential case file and shall  
22 not become part of the public file in the proceeding or any other  
23 civil proceeding. However, the contents of the confidential case  
24 file shall be disclosed to the court-appointed mediator assigned to  
25 the case or to a child custody evaluator appointed by the court  
26 pursuant to ~~Section 3111 of the Family Code or~~ Section 730 of the  
27 Evidence Code *or Section 3111 of this code*. All court-appointed  
28 mediators and child custody evaluators appointed or contracted  
29 by the court pursuant to ~~Section 3111 of the Family Code or~~  
30 Section 730 of the Evidence Code *or Section 3111 of this code*  
31 who may receive information from the search conducted pursuant  
32 to subdivision (a) shall be subject to, and shall comply with, the  
33 California Law Enforcement Telecommunications System policies,  
34 practices, and procedures adopted pursuant to Section 15160 of  
35 the Government Code.

36 (e) If the results of the search conducted pursuant to subdivision  
37 (a) indicate that an outstanding warrant exists against the subject  
38 of the order, the court shall order the clerk of the court to  
39 immediately notify, by the most effective means available,  
40 appropriate law enforcement officials of the issuance and contents

1 of any protective order and of any other information obtained  
2 through the search that the court determines is appropriate. The  
3 law enforcement officials so notified shall take all actions necessary  
4 to execute any outstanding warrants or any other actions, with  
5 respect to the restrained person, as appropriate and as soon as  
6 practicable.

7 (f) If the results of the search conducted pursuant to subdivision  
8 (a) indicate that the subject of the order is currently on parole or  
9 probation, the court shall order the clerk of the court to immediately  
10 notify, by the most effective means available, the appropriate parole  
11 or probation officer of the issuance and contents of any protective  
12 order issued by the court and of any other information obtained  
13 through the search that the court determines is appropriate. That  
14 officer shall take all actions necessary to revoke any parole or  
15 probation, or any other actions, with respect to the restrained  
16 person, as appropriate and as soon as practicable.

17 (g) Nothing in this section shall delay the granting of an  
18 application for an order that may otherwise be granted without the  
19 information resulting from the database search. If the court finds  
20 that a protective order under this part should be granted on the  
21 basis of the affidavit presented with the petition, the court shall  
22 issue the protective order and shall then ensure that a search is  
23 conducted pursuant to subdivision (a) prior to the hearing.